Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC 20554

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OCT	21	1996	

Implementation of Section 703)	review of the second
of the Telecommunications Act)	
of 1996)	
)	CS Docket No. 96-166
Amendment and Additions to the)	
Commission's Rules Governing)	
Pole Attachments)	DOCKET FILE COPY ORIGINAL
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COMMENTS OF U S WEST, INC.

U S WEST, Inc. ("U S WEST") submits these comments on one aspect of the Request for Clarification and Reconsideration filed by Delmarva Power & Light Company ("Delmarva"). US WEST has subsidiaries serving different areas which operate as incumbent local exchange carriers ("LEC") and competitive LECs. As such, US WEST will be both a provider of poles, conduits, and rights-of-way to other telecommunications carriers and a user of such facilities provided by other incumbent LECs.

Delmarva expresses concern that Section 1.1416(b) of the Federal Communications Commission's ("Commission") rules² might be interpreted so as to overturn certain existing industry practices. Delmarva asks the Commission to

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List A B C D E

¹ Delmarva Request for Clarification and Reconsideration filed Sep. 18, 1996. <u>See also In the Matter of Implementation of Section 703 of the Telecommunications Act of 1996; Amendments and Additions to the Commission's Rules Governing Pole Attachments, Order, 11 FCC Rcd. 9541 (1996).</u>

² 47 CFR § 1.1416(b).

"recognize existing practice, . . . and clarify that an attaching entity must pay the costs of rearrangement when the utility owner of the pole needs to replace the pole for reasons other than the need to create space for additional attachments." US WEST supports Delmarva's request for clarification.

It is unquestioned that an attaching entity should not be required to bear the costs of rearrangements which are the result of an additional attachment by another entity or the owning utility. However, in adopting the Telecommunications Act of 1996, Congress never intended that the owner of a pole or conduit should bear all costs of rearrangement necessitated by natural disasters, weather, uncompensated accidents, or other causes unrelated to the ordinary use of poles, conduits, and rights-of-way. Such a requirement would be inequitable and would force utilities to unlawfully subsidize other users of their poles, conduits, and rights-of-way. To avoid such a result, the Commission should clarify its rules to reflect existing industry practices in accordance with Delmarva's petition.

Respectfully submitted,

U S WEST, INC.

By:

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October 21, 1996

Delmarva at 3.

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 21st day of October, 1996, I have caused a copy of the foregoing COMMENTS OF U S WEST, INC. to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.

Kelseau Powe, Jr.

*Via Hand-Delivery

(CS96166.COS/JH/lh)

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